

Message Text

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PAGE 01 BRUSSE 00716 251348Z

ACTION EB-08

INFO OCT-01 EUR-12 ISO-00 SP-02 USIA-06 AID-05 NSC-05
CIEP-01 TRSE-00 SS-15 STR-04 OMB-01 CEA-01 CIAE-00
COME-00 FRB-03 INR-07 NSAE-00 XMB-02 OPIC-03 LAB-04
SIL-01 L-03 IGA-02 /086 W
-----251352Z 037105 /41

P R 251213Z JAN 77

FM AMEMBASSY BRUSSELS

TO SECSTATE WASHDC PRIORITY 8898

INFO AMEMBASSY THE HAGUE

USMISSION OECD PARIS

AMCONSUL ANTWERP

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E.O.11652: N/A

TAGS: EIND EINV ELAB BBAK BE

SUBJECT: BADGER BELGIUM BANKRUPTCY

REF: (A) BRUSSELS 282 (B) BRUSSELS 386
(C) STATE 9787

1. ANTWERP MANAGER OF BADGER CALLED EMBASSY TO INFORM US THAT THE COURT IN WHICH BADGER HAD PUT ITS BANKRUPTCY PROCEEDINGS HAS DELAYED A DECISION UNTIL JANUARY 27. PURPOSE OF DELAY IS REPORTEDLY TO PROVIDE THE COMPANY WITH ADDITIONAL TIME TO MAKE MORE AMICABLE SETTLEMENT OF TERMINATION PAYMENTS CLAIMS OF EMPLOYEES.

2. BRUSSELS LAW FIRM HAS BEEN RETAINED BY BADGER EMPLOYEES TO SAFEGUARD THEIR INTERESTS RE TERMINATION PAYMENTS. WE ARE INFORMED THAT SOME 200 EMPLOYEES HAVE PUT TOGETHER A FUND AMOUNTING TO ONE MILLION BELGIAN FRANCS TO PURSUE MATTER IN THE COURTS IF SETTLEMENT BY BADGER IS NOT IMPROVED. IF BADGER DOES NOT ACT BY JANUARY 27, THE EMPLOYEES' LAWYER TELLS US HE WILL PRESENT A
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PAGE 02 BRUSSE 00716 251348Z

WRIT TO THE COURT OF FIRST INSTANCE IN ANTWERP AND WILL SO INFORM THE BRUSSELS LAW FIRM BAKER AND MCKENZIE, WHICH REPRESENTS BADGER MANAGEMENT. ACCORDING TO THE LAWYER FOR THE EMPLOYEES, THEY WILL ARGUE IN THE COURT THAT BADGER'S INDEPENDENT STATUS IS A LEGAL FICTION AND THAT BADGER IN THE HAGUE AND RAYTHEON SHOULD BE HELD LIABLE FOR THE PAYMENT OF TERMINATION COSTS. THEY WILL ALSO ASSERT THAT THERE ARE IRREGULARITIES IN THE ANTWERP COMPANY'S

BOOKS AFFECTING THE ASSETS OF THE COMPANY AND ITS ABILITY TO PAY
TERMINATION PAYMENTS. LAWYER FOR EMPLOYEES BELIEVES THEY WILL
PURSUE COURT ACTION AND MAY LOOK TO THE UNIONS FOR FURTHER
FINANCIAL SUPPORT IF NECESSARY.

3. EMBASSY IS REPEATING REFERENCE CABLES TO USOECD PARIS SINCE
SITUATION MAY POSSIBLY FALL WITHIN THE OECD GUIDELINES ON
MULTINATIONAL CORPORATION BEHAVIOR, PARTICULARLY CHAPTER ENTITLED
EMPLOYMENT AND INDUSTRIAL RELATIONS, SUBPARAGRAPH SIX, WHICH
CONTAINS FOLLOWING LANGUAGE IN REFERENCE TO PLANT CLOSURE:
"... COOPERATE WITH THE EMPLOYEE REPRESENTATIVE AND APPROPRIATE
GOVERNMENTAL AUTHORITIES SO AS TO MITIGATE TO THE MAXIMUM EXTENT
PRACTICABLE ADVERSE EFFECTS. . . ." EMBASSY DOES NOT KNOW
WHETHER RAYTHEON OR BADGER MASSACHUSETTS HAS SUBSCRIBED TO MNC
GUIDELINES OR WHETHER COMPANY BELONGS TO INDUSTRY ASSOCIATION
WHICH HAS SUBSCRIBED. EMBASSY WOULD BE INTERESTED IN LEARNING
WHETHER WE HAVE HAD ANY EXPERIENCE WITH IMPLEMENTING MNC
GUIDELINES AND WHETHER DEPARTMENT CONSIDERS CURRENT SITUATION RE
BADGER ANTWERP WOULD BE COVERED BY OECD GUIDELINES. RENNER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: BANKRUPTCIES
Control Number: n/a
Copy: SINGLE
Sent Date: 25-Jan-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977BRUSSE00716
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770026-0966
Format: TEL
From: BRUSSELS
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770122/aaaaaszn.tel
Line Count: 81
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 5c7e9ed1-c288-dd11-92da-001cc4696bcc
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 77 BRUSSELS 282, 77 BRUSSELS 386, 77 STATE 9787
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 22-Nov-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3515353
Secure: OPEN
Status: NATIVE
Subject: BADGER BELGIUM BANKRUPTCY
TAGS: EIND, EINV, ELAB, BBAK, BE, BADGER
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/5c7e9ed1-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009